

EXHIBIT 11
(Deposition of Kopal Rawat)

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA

CHARLOTTE DIVISION

3:20-cv-517

JOBBIE FLOWERS,

Plaintiff,

v.

ELECTROLUX NORTH AMERICA, INC.,

Defendant.

VIDEO CONFERENCE
DEPOSITION OF KOPAL RAWAT

May 7, 2021

9:39 a.m.

Charlotte, North Carolina

Reported by: Audra M. Smith, RPR, FCRR

1 Q Okay. What's your understanding of Equal
2 Opportunity training?

3 A For me, the way I understand, is it's
4 purely performance-based and based on educational
5 merits and education as well as experience merits
6 that someone is associated with a particular job.
7 It does not matter what race, gender they come from,
8 their background.

9 Q Do you have any training or knowledge
10 regarding the Americans with Disability Act?

11 A Not that I can remember.

12 Q Do you know with the Americans with
13 Disabilities Act is?

14 A I don't know.

15 Q Are you familiar with the Family Medical
16 Leave Act?

17 A I'm aware that's provided in Electrolux,
18 but not the whole detail. I know the process, is
19 what I'm saying; not the whole detail around it.

20 Q Okay. What is the process at Electrolux
21 that you know of?

22 A If an employee is out for more than three
23 days, they need to reach out to UNUM and HR and let
24 them know if they want to use the FMLA or not.

25 Q Have you received any training if you

1 become aware of someone who needs a medical leave of
2 anything that you, as a manager, are supposed to do
3 at Electrolux?

4 A No training -- no training.

5 Q Do you have any independent knowledge then
6 on your own as to what you, as a manager, should do
7 if you become aware that someone has a need -- a
8 medical need for leave?

9 A Contact HR.

10 Q I know you said you read the performance
11 improvement plan prior to your deposition today.
12 Have you read the complaint in this lawsuit?

13 A I'm aware of it. I can't remember the
14 details.

15 Q Okay. But do you recall ever reading a
16 copy of the complaint that was filed in court in
17 this case?

18 A I can't remember.

19 Q Is that a maybe it happened and you just
20 don't remember or it didn't happen at all?

21 A I can't remember. Honestly, I can't
22 remember.

23 Q Do you recall anyone ever providing you a
24 copy of the complaint in this case?

25 A There was an email that was sent about

1 A Yes.

2 Q Why was Mr. Kean terminated?

3 A Performance issues.

4 Q Can you be more specific?

5 A Sure. Just so that I'm sure you're asking
6 about Robert Kean, right?

7 Q Yes, ma'am.

8 A So Robert had performance issues where he
9 would make mistakes while deploying the code from
10 one environment to another. We have various
11 environments.

12 So we have various environments where we
13 deploy our code, so that when we go to production
14 environment, it is tested and approved by various
15 users who use the application. So he would develop
16 in the development environment and put it in UA, the
17 user acceptance training environment. Users would
18 test over there, and then he would put in the
19 production environment as a final step to any
20 request for application change.

21 He used to be negligent continuously when
22 moving code from one environment to another. Apart
23 from that, when he used to work on collecting the
24 requirements, he did not take the holistic
25 requirement and did not deliver, as well, on what

1 was the ask.

2 And then the production environment issues
3 were something that -- he worked on very critical
4 environment, and he made a mistake in one of the
5 production environment which was very detrimental.

6 Q I think I hear, other than your
7 assessment, that he wasn't taking a holistic
8 approach on the deliverables, that each of the other
9 pieces of the reason you terminated him were
10 objective; meaning, you could show that there were
11 mistakes in his work; is that correct?

12 A Yes.

13 Q Any other reasons why Mr. Kean was
14 terminated by you?

15 A This was the primary reason.

16 Q So was there a secondary reason?

17 A No.

18 Q Did Mr. Kean have a disability?

19 A I don't -- I'm not aware.

20 Q Had you ever been made aware that Mr. Kean
21 needed any type of medical leave?

22 A No.

23 Q Had he ever taken a leave of absence while
24 he worked for you?

25 A Vacation, yes. But, yeah -- yes.

1 Electrolux?

2 A Yes.

3 Q From whom does that come?

4 A As far as I can remember, it came from our
5 legal department.

6 Q So the legal department would send you an
7 email indicating that you are being issued a
8 litigation hold notice, correct?

9 A That is correct.

10 Q Are you aware of whether or not you
11 received an email related to Jobbie Flowers' case?

12 A I did receive an email.

13 Q Do you recall whether you received that
14 email before or after Mr. Flowers was terminated?

15 A I can't recall that.

16 Q Do you still have the email?

17 A I'm pretty sure, yes.

18 Q Has anyone asked you to produce that
19 email?

20 A No.

21 Q Do you recall participating any in type of
22 investigation regarding Mr. Flowers prior to his
23 termination?

24 A No.

25 Q Did you participate in any way in the

1 records for my documentation, per se, later that
2 year, sometime later because it was becoming a
3 recurrent thing.

4 Q What was becoming a recurrent thing?

5 A We discussing setting expectations for a
6 particular project, followup meetings, and he was
7 not -- like it seemed like whatever was discussed,
8 he just did not follow that or he just did not come
9 through with any of the deliverables.

10 Q What caused you to begin creating, I think
11 you said, your records regarding your conversations
12 with Mr. Flowers?

13 A I think when Mr. Flowers' behavior from
14 those discussions became unprofessional. He was
15 angry, loud, rolled his eyes sometimes, sarcastic
16 comments. It was just unprofessional behavior. At
17 that time, I felt like I needed to put some -- start
18 records, documenting those.

19 Q And the behavior that you just described
20 of Mr. Flowers is your records that you documented,
21 correct?

22 A Yes, ma'am.

23 Q And these are during the one-on-one
24 meetings where the only two people were present were
25 you and Mr. Flowers; is that correct?

1 A One-on-one, team meetings and -- we have
2 like an area where we all sit, call it floor, two
3 times that I remember that he created a scene on the
4 floor as well.

5 Q Well, let's just stick with your
6 one-on-one meetings for just a moment.

7 A Okay.

8 Q Did you have more one-on-one meetings with
9 Mr. Flowers or team meetings?

10 A Repeat that again for me?

11 Q Did you have more one-on-one meetings with
12 Mr. Flowers or team meetings?

13 A Yeah. We used to have them on regular
14 basis, both one-on-one and team meetings.

15 Q Let's just stick with one-on-ones right at
16 the moment. I'm asking you which one did you have
17 more with Mr. Flowers, one-on-one or team meetings?

18 A Team meetings were daily. One-on-ones
19 were once in a -- once in a month or once in two
20 weeks initially or as required, again, depending on
21 the project.

22 Q How often do you remember meeting
23 one-on-one with Mr. Flowers?

24 A At least once or twice a month.

25 Q And you described that his behavior at

1 A One in January. I wouldn't call it an
2 issue. I was just trying to understand what
3 happened, because for me, I was always trying to
4 understand. The way his reaction was with certain
5 things, I just was not able to understand. I wanted
6 to make sure, you know, we are, again, on the same
7 page with how we want to proceed with the project.
8 So it was in January probably, January, February
9 again.

10 Q Okay. So what -- tell me everything you
11 can recall about what you're referring to in
12 January, February of 2019 and Mr. Flowers' reactions
13 that you were concerned with.

14 A Okay. We had a meeting, a project
15 meeting, various team members involved from IT, and
16 one of the tasks was something that primarily Jobbie
17 was responsible for. And he had more knowledge,
18 based on what he had shared and based on the
19 responsibilities that he had. So I was asking him
20 questions associated to it and trying to think
21 through what we need to do in order to take care of
22 that task, because it was impacting -- or that
23 particular change of application was impacting
24 multiple sites or locations.

25 While I was asking the questions, he

1 became a little bit agitated, frustrated, and left
2 the meeting room.

3 I think it was after that meeting that --
4 I had a meeting with him again to understand, What
5 happened?

6 Q Okay. Sticking with that. In the
7 instance that you're talking about the meeting where
8 he became, quote, "agitated and left the room," who
9 was present?

10 A As far as my memory serves, Robert Kean,
11 Anand Deshiraju. There was a PM at that point,
12 Rick. I can't remember his last name. There was
13 one more person in that meeting, and I can't recall
14 who that was. Someone from the database team, I
15 guess.

16 Q Is there anyone else other than
17 Mr. Flowers in that meeting who was
18 African-American?

19 A No.

20 Q Did anyone in that meeting record the
21 meeting in any way?

22 A Not that I know of.

23 Q Did you record the meeting?

24 A No.

25 Q Following the meeting that you're

1 sure I'm going with -- I wanted to make sure I have
2 full information about Jobbie. Was there anything
3 else previously? No. Then this is my experience
4 with him.

5 Q So at any point prior to September of
6 2019 -- strike that.

7 What was the earliest time that you can
8 recall that you were thinking about putting Jobbie
9 on a performance improvement plan?

10 A No where before that.

11 Q No when before when?

12 A September, October when I reached out to.

13 Q What changed between late summer and
14 September and October that caused you to want to put
15 Jobbie on a performance improvement plan?

16 A It was nine -- about nine months or so,
17 having the same conversation but not getting any
18 improvement in the performance.

19 Q When you say "performance," exactly what
20 are you referring to when it relates to Jobbie's
21 what? Not the how, but the what he was doing. What
22 about his performance were you concerned about so
23 much so that you believed he was deserving of a
24 performance improvement plan?

25 A A lot of incidences leading and seeing no

1 A Yes.

2 Q -- for three days or more.

3 A Correct.

4 Q What did you mean "he is out sick again"?

5 A Probably was sick before.

6 Q Okay. Did you -- were you aware that
7 Mr. Flowers had had some illnesses that caused him
8 to be out of work prior to July of 2019?

9 A I can't, again, remember or recall
10 exactly. But, yeah, he might have been -- he might
11 have sent this same message or email. That's how I
12 was made aware he was out sick.

13 Q Did you ever ask Mr. Flowers anything
14 about him -- his need to be out sick?

15 A No. How was he doing when he came back.
16 Hope you're feeling better.

17 Q Did you know that Mr. Flowers is a
18 diabetic?

19 A No, did not know that.

20 Q You never heard Mr. Flowers openly talk
21 about his diabetes in meetings?

22 A No, not that I can remember.

23 Q If Mr. Flowers said he did talk about his
24 diabetes in meetings that you were present, it would
25 be your word against everybody else in the meeting

1 Q Well --

2 A Based on what Alexa and Jobbie exchanged,
3 yeah, probably not, but I don't know if there was
4 any other conversation -- I can't comment on that.

5 Q So let me -- you knew on July 19 that
6 Jobbie wanted to meet with HR, and you assumed it
7 was about you, right?

8 A Yes, probably.

9 Q And on the -- as of the date of this
10 email, which I think -- well -- strike that.

11 As of this invite, you were having a
12 meeting with your boss on Monday, July 22 following
13 the assumption that you knew that Jobbie wanted to
14 talk to HR about you, correct?

15 A Yes.

16 Q And you --

17 A Assumption.

18 Q You knew that Alexa Moor was going to be
19 out of the office on Monday and Tuesday, the 22nd
20 and 23rd, correct?

21 A That's correct.

22 Q So, therefore, you knew Mr. Flowers
23 wouldn't have a chance to meet with HR until after
24 your meeting that you set up with Brenda, right?

25 A Would you mind going to Exhibit 7 for me?

1 Q Sure.

2 A That's what I'm saying. If she's saying
3 "If there's anything urgent, please let me know," I
4 cannot remember if there was anything else that was
5 exchanged with him. So as far as I remember, this,
6 him and meeting HR, I don't know if anything
7 happened or not. But, yeah, that one-on-one
8 definitely happened.

9 Q Yeah, I'm trying to understand, Ms. Rawat,
10 what you knew. And so on Friday, July 19, you're
11 having this exchange with HR about Jobbie wanting to
12 meet with HR that you assumed was about you, right?

13 A Yes.

14 Q And you knew that Ms. Moor, HR, was going
15 to be out of the office on Monday, July 22nd and
16 Tuesday, July 23rd; by this email that is Exhibit 7
17 she was informing everyone she was going to be gone
18 those two days, wasn't she?

19 A Correct.

20 Q So then you sent an email invite to your
21 boss to meet with her on Monday before Jobbie could
22 get to HR, right, to talk about Jobbie's meeting
23 with HR?

24 A Jobbie could get to HR. She said it was
25 urgent, so I'm not commenting on that piece that he

1 was able to get to HR or not.

2 For me, yes, this meeting with Brenda, I
3 had scheduled based on this particular exhibit, and
4 again, keeping her posted or updated on what has
5 happened, the conversation, and then the request
6 that he made to reach out to HR.

7 Q Again, let's go back to Number 7.

8 A Okay.

9 Q This is 11:43 a.m., and Alexa's telling
10 everyone she's going to be out and that she will
11 send a calendar invite for later next week, right?

12 A Okay.

13 Q You knew that based on this email the
14 earliest that Jobbie was going to get to meet with
15 HR to talk about you was going to be late the
16 following week, correct?

17 A It's both those things, right? She's
18 saying she's sending a calendar invite because she's
19 out, but if there's anything urgent, please let me
20 know.

21 Q Are you aware whether Mr. Flowers had the
22 opportunity to speak with Mrs. Moor following this
23 email and your meeting with Brenda Simpson on
24 Monday, July 22nd?

25 A No, I'm not aware.

1 Q So you immediately turned around and sent
2 an email to Brenda Simpson asking for a one-on-one
3 with her, and one of the subject lines is Jobbie and
4 HR, correct?

5 A Correct.

6 Q Did you and Ms. Simpson meet on Monday?

7 A Probably. I can't remember exactly, but
8 yeah, the meeting was set up, probably, yes.

9 Q Do you know when you sent this meeting
10 invite to Ms. Simpson?

11 A I can't remember.

12 Q If the metadata of the document production
13 says you sent this invite within one and a half
14 hours after you became aware that Jobbie wanted to
15 meet with HR, would that be accurate?

16 A If the metadata says, then yes.

17 Q What did you and Brenda discuss regarding
18 Jobbie?

19 A The conversations that had been happening,
20 having a feedback I'd been giving and he requested
21 for me to get him in touch with someone in HR.

22 Q Were you concerned about what Jobbie was
23 going to say about you to HR?

24 A I mean, it was one of my assumptions, so
25 that's the only thing that I would -- have discussed

1 Q And that PIP template has some completed
2 information indicating about work environment
3 summarizing how his behavior and demeanor is
4 preventing a comfortable work environment for team
5 members; do you see that?

6 A That's a template she sent me, so that's
7 all I read it as.

8 Q Again, if the metadata shows that Ms. Moor
9 added that language in and it is not a template, you
10 have no reason to argue with the metadata, do you?

11 A No. If that's what the metadata says, I
12 don't -- for me I took it as a template.

13 Q But again, regardless of whether it was a
14 template or not, you received it in between meetings
15 about Jobbie Flowers and there's no indication you
16 were meeting discussing Robert Kean, is there?

17 A I mean, written, no. But again, those two
18 conversations were what happened.

19 Q Okay. What other team members had -- did
20 you have any issues with regarding their behavior
21 and demeanor?

22 A None that I can remember.

23 Q Were there any other team members that you
24 were informing HR that there were perhaps employees
25 were uncomfortable working with them?

1 under expectations, and the only change is you as
2 his manager. Did that concern you as a manager that
3 all of a sudden you have an employee who you think
4 is a problem and nobody else did?

5 A No. I did discuss with Brenda who was
6 Jobbie's previous manager and she had some of those
7 concerns like I did, so it was not a new situation.
8 But, yeah, for me, it was Jobbie and me working --
9 starting 2019.

10 Q And Ms. Simpson never put Jobbie on a
11 performance improvement plan, correct?

12 A Not that I'm aware of.

13 Q And Ms. Simpson did not terminate Jobbie
14 prior to you becoming his manager, correct?

15 A That's correct.

16 Q Were you aware sometime in the fall of
17 2019 that Mr. Flowers had experienced another
18 medical issue related to his diabetes?

19 A I know he mentioned that he was going to
20 be out sick, and I think he was admitted in ER, but
21 associated to diabetes, no, I was not aware.

22 Q You said something he said that he was
23 going to be out sick. I mean, I want to make sure
24 we have a clear record. Mr. Flowers didn't plan to
25 get sick enough that he had to go to the hospital,

1 A Yes.

2 Q Said he's having some medical issues, has
3 been out of the office. He was out sick Friday,
4 came in briefly Monday, and then left to go to ER.
5 He's been out since. What is the correct process to
6 follow at this point? I believe that Alexa had
7 mentioned that once an employee passes three days,
8 they need to file a claim -- need to file with UNUM
9 as a protection for them. Let us know the best way
10 to approach this with Jobbie.

11 Do you see that?

12 A Yes.

13 Q Did you contact Jobbie and let him know
14 that information was forthcoming from UNUM?

15 A I contacted -- as far as I remember, I
16 contacted Jobbie to remind him of the process that
17 he needs to do with UNUM, if in case, I think, he's
18 out for more than three days.

19 Q Did you do anything else?

20 A No, not that I can recall or remember.

21 Q Did Jobbie provide you with any medical
22 documents or medical information following his
23 hospital visit?

24 A I think, as far as I remember, he sent me
25 a document of his stay which I forwarded to HR, I

1 related to the Share Point project.

2 A Not sharing updates, not coming to the
3 team meetings and then the project and the
4 discussion was the tasks that he was working on took
5 a really long time, and without any updates, I
6 didn't have any idea what was going on.

7 Q Let's start with not coming to the team
8 meetings. Isn't it true that one of the team
9 meetings you're referring to occurred after
10 Mr. Flowers had worked a 20-hour day on a Home Depot
11 project?

12 A I can't remember.

13 Q Is that possible it happened and you just
14 don't recall?

15 A I can't remember.

16 Q Are you aware of any projects during the
17 time that Mr. Flowers worked for you wherein that he
18 worked tremendous, long days in excess of 16 to 20
19 hours to complete projects for clients?

20 A No. Only THD testing one night I recall.

21 Q And what do you recall about that one
22 night?

23 A He worked on the testing with them on a
24 project or something, and that's all I remember
25 about that night, that he shared with me.

1 sure he works on priorities as assigned or agreed
2 upon by the management, provide status updates in a
3 form that is helpful for the manager to understand
4 or gauge what he's been spending his time on, and
5 work on the project as discussed or agreed upon.

6 Q So the PIP was issued on November 8, 2019.
7 How long was the PIP plan supposed to be for?

8 A Can you scroll up for me, please? The
9 first page?

10 As far as I remember 90 days.

11 Q Do you know what 90 days from November 8,
12 2019 is?

13 A Somewhere around February.

14 Q February of 2020?

15 A Yes.

16 Q Was Mr. Flowers given the opportunity to
17 work the full 90-day Performance Improvement Plan
18 period?

19 A No.

20 Q Why?

21 A Because there were no improvements that
22 were there in the initial two PIPs that we worked
23 on. It was more than 60 days, but no improvement
24 was made.

25 Q Okay. So it's your testimony, once you

1 that Ms. Sinclair is reaching out to you, and she's
2 asking about compiling documents discussed on
3 Tuesday after Brenda's team meeting; do you see
4 that?

5 A Yes.

6 Q Do you recall what documents she was
7 referring to?

8 A No, I can't remember.

9 Q And you say: I'm halfway through. Just
10 need to work on text messages.

11 Do you recall pulling text messages for
12 Naomi for something?

13 A Yeah, I do.

14 Q What were you pulling text messages for?

15 A I don't think I remember what it was
16 exactly.

17 Q Well, maybe the 301 entry will help you.
18 You say: But the legal hold said not to send any
19 information so was bit confused.

20 Do you see that line?

21 A I do see it.

22 Q Do you recall receiving a legal hold for
23 any other matter other than Jobbie Flowers?

24 A No.

25 Q Is it --

1 A Not that I can remember.

2 Q Is it accurate that the legal hold that
3 referring to here on December 9, 2019 is related to
4 Jobbie Flowers?

5 A I can't remember.

6 Q Again, you don't remember but you also
7 don't remember whether you had any other legal
8 holds; is that your testimony?

9 A I can't remember that I've seen any other
10 legal holds.

11 Q Okay. She says: Are you at your desk?
12 You say: Yes you're about to leave for a
13 document. Want to meet outside?

14 That's perfect.

15 So did you and Naomi meet on December 9,
16 2019 outside Vancouver?

17 A I can't remember.

18 Q Do you remember anything about any
19 conversations you had with Naomi about a litigation
20 hold on November 9, 2019?

21 A I can't remember.

22 Q Okay. Did you -- you pick up the
23 conversation the next day, or at least some point in
24 time. It looks like: Hi Naomi. Good morning. I
25 was able to compile everything this weekend

1 the PIP was going to be worked upon, not the current
2 date. Probably that might be the reason why I had
3 put 1/22 as the date.

4 Q I understand that. You had told
5 Mr. Flowers that you were going to have a review
6 meeting with him on January 22. Not I'm going to
7 fire you on January 22, correct?

8 A Yes, the second month follow up was going
9 to be on January 22.

10 Q Right. You told him on January 6th,
11 Because we missed so much time over the holidays and
12 sick leave, you were moving the second month
13 followup meeting to January 22, correct?

14 A Correct.

15 Q And again, you didn't have a followup
16 meeting with him between January 6 and January 22,
17 did you?

18 A I had one-on-one meetings with him.

19 Q The one that you have testified to already
20 that you believe occurred you can't remember when
21 and you and Naomi were present; is that right?

22 A Correct. If you -- as far as I remember,
23 if you can go on Exhibit Number 22, it might be have
24 a reference of that meeting and what was discussed,
25 not 22. The one that you were showing the PIP in.

1 referring to in Exhibit 11, as you saw, was attached
2 to an email that was sent to you by Ms. Moor on
3 July 24th, 2019, correct?

4 A I can't remember the date but, yeah, I
5 remember the conversation.

6 Q Okay. This is Exhibit Number 10.

7 A Okay.

8 Q To you, PIP template, no subject line, and
9 it is the Wednesday following you sending her an
10 email wherein that Jobbie Flowers was -- you were
11 informing that Jobbie Flowers wanted to meet with
12 HR, right?

13 A Yes, as far as I remember our
14 conversations.

15 Q And do you have any reason to believe that
16 anyone other than Alexa Moor completed the sections
17 that Mr. Alexander just asked you on Exhibit 11?

18 A She was sending me a template. I don't
19 know what she was using it for.

20 Q Again, we talked about this. If the
21 metadata shows Ms. Moor typed in these sections that
22 are highlighted by her when she sent you this
23 document, you have no reason to dispute that that's
24 inaccurate, correct?

25 A She sent me a template with this